

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

James A. Johnson, # 148215,

Plaintiff,

v.

Tom Fox,

Defendant.

C/A 2:04-22488-CMC-RSC

OPINION AND ORDER

This action was brought by a *pro se* Plaintiff seeking relief pursuant to 42 U.S.C. § 1983. Defendant filed a motion for summary judgment on May 16, 2005. The court advised Plaintiff of the summary judgment procedures and the consequences if he failed to respond to the summary judgment motion. Plaintiff did not file a response. In accordance with this court's order of reference and 28 U.S.C. § 636(b), this matter comes before the court with the Report and Recommendation of United States Magistrate Judge Robert S. Carr.

This court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). The court reviews only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, __F.3d__, 2005 WL 1713188, at *3 (4th Cir. 2005) (stating that "in the absence of a timely filed objection, a district court need not conduct *de novo* review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" (quoting Fed. R. Civ. P. 72 advisory committee's note).

Based on his review of the record, the Magistrate Judge has recommended that the action

be dismissed for lack of prosecution because Plaintiff failed to respond to Defendant's motion for summary judgment. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and Recommendation. Plaintiff has filed no objections and the time for doing so has expired.

After reviewing the complaint, the motion, the record, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court finds no clear error and agrees with the recommendation of the Magistrate Judge. Accordingly, the Report and Recommendation of the Magistrate Judge is adopted and incorporated by reference. This action is DISMISSED for lack of prosecution.

IT IS SO ORDERED.

Columbia, South Carolina
August 23, 2005

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

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